

{All new material is underlined; all material to be deleted is in brackets [].}

**BILL NO.** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE TO AMEND TITLE 5, CHAPTER 5.90, ARTICLE IX, OF THE RENO MUNICIPAL CODE ENTITLED "MASTER CABLE TELEVISION ORDINANCE" ~~TO INCORPORATE CONSUMER PROTECTION REQUIREMENTS IDENTIFIED IN THE CITY OF RENO'S CABLE TELEVISION COMMUNITY NEEDS REPORT, JANUARY 2003,~~ AND OTHER MATTERS PROPERLY RELATING THERETO.**

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

Section 1: Title 5 of the Reno Municipal Code is hereby amended by adding and deleting certain wording in Sections 5.90.800 to 5.90.1170, inclusive, to read as follows:

**Article IX.  
Master Cable Television Ordinance**

**Sec. 5.90.800. Definitions.**

(a) *General Definitions.* Except as otherwise provided herein, all words shall have the customary dictionary meaning.

- (1) The present tense includes the future tense.
- (2) The singular number includes the plural and the plural number includes the singular.
- (3) The masculine, feminine and neuter genders shall each be deemed to include the other or others whenever the context so indicates.
- (4) The word "person" includes a firm, corporation, association, organization, trust, or partnership.
- (5) The word "shall" is mandatory.
- (6) The word "may" is permissive.

(b) *Specific Definitions.* It is the intention of the City that the following definitions also be made part of subsequent cable franchise agreements.

- (1) *Access channels* or *PEG channels* means free composite channels to be used for public, educational, and government purposes.
- (2) *Adoption* shall mean the process necessary to formally enact the provisions of this Ordinance within the City's jurisdiction under applicable law.
- (3) *Basic services tier* means those broadcast and nonbroadcast services provided by the Cable Operator at the lowest monthly charge and consisting of local stations, access channels, and any other distant retransmission and/or satellite channels selected by the Cable Operator.
- (4) *Cable Act* means the Cable Communications Policy Act of 1984, and any subsequent amendments.
- ~~(5) *Cable Operator* shall mean any person granted a franchise to operate, or operating, a cable television system within any area of jurisdiction of the City, or such person's employees, agents, contractors, or subcontractors.~~
- (5) *Cable Operator* shall mean any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for the management and operation of such cable system in the Franchise Service Area.
- (6) *Cable service* means (i) the one-way transmission to Subscriber of video programming or other programming service, and (ii) Subscriber interaction, if any, which is required for the selection by the Subscriber of such video programming or other programming service.
- (7) *Channel* means a single path or section of the spectrum which carries a television signal.
- (8) *City* means the City of Reno, a municipal corporation of the State of Nevada.
- (9) *City Council* means the present governing body of the City or any future Council constituting the legislative body of the City.
- (10) *City Manager* means the City Manager or the City Manager's designee.
- (11) *Community antenna television system, CATV, cable television system, or system* means a system of antennas, cables, wires, lines, towers, transmission lines, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying, scrambling and distributing audio, video and other forms of electronic or electrical signals, located in whole or in part in the City, consistent with NRS 711.020 et. seq., as subsequently amended.
- (12) *Converter* or *digital converter* means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and with an appropriate channel selector which also permits a Subscriber to view all signals delivered at designated converter dial locations.
- (13) *Council* means the present governing body of the City or any future board constituting the legislative body of the City.

- (14) *Customer or Subscriber* shall mean any person who legally receives cable television service ~~of any kind~~ from the Cable Operator.
- (15) *Customer Service Representative* (or "CSR") shall mean any person employed by the Cable Operator to assist, or provide service to, Subscribers, whether by answering public telephone lines, writing service or installation orders, answering Subscribers' questions, receiving and processing payments, or performing other customer service-related tasks.
- (16) *Disability*. A person is considered to have a disability if that person (1) has a physical or mental impairment which substantially limits one or more of that person's life activities such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working; and (2) has a medical record of such an impairment.
- (17) *Dwelling unit* means residential living facilities as distinguished from temporary lodging facilities such as hotel and motel rooms and dormitories, and includes single-family residential units and individual apartments, condominium units, mobile homes within mobile home parks, and other multiple-family residential units.
- (18) *FCC* means the Federal Communications Commission, or successor governmental entity thereto.
- (19) *Gross revenues* includes, subject to federal, state and local law and any amendments thereto, without limitation, customer revenues including those for basic, expanded basic, or digital cable services; premium services; pay per view; installation, disconnection or service call fees; fees for the provision, sale, rental or lease of converters, remote controls, additional outlets and other customer premises equipment; amounts collected from Subscribers for franchise fees in accordance with federal statutory and case law, including but not limited to, *City of Dallas v. FCC*, 118 F.3d 393 (5<sup>th</sup> Cir. 1997), and all other services allowed by law. Gross revenues shall not include (1) any taxes, fees or assessments of general applicability collected by Cable Operator from Subscribers for pass-through to a government agency, including the FCC User Fee; (2) unrecovered bad debt; (3) any PEG amounts recovered from Subscribers or capital costs required by Cable Operator for PEG; (4) any incidental costs associated with the awarding or enforcing of the franchise including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; and (5) any applicable deductions allowed pursuant to state law, including but not limited to, NRS 711.200.
- (20) *Installation* means the connection of the system from feeder cable to Subscribers' terminals.
- (21) *Institutional services* means a cable communications system designated principally for the provision of services to schools, public agencies or other non-profit agencies, separate and distinct from the subscriber network, or on secured channels of the subscriber network.

- (22) *Interactive services* means services provided to Subscribers where the Subscriber either (i) both receives information consisting of either television or other signals and transmits signals generated by the Subscriber or equipment under his/her control for the purpose of selecting what information shall be transmitted to the Subscriber or for any other purpose; or (ii) transmits signals to any other location for any purpose.
- (23) *Interconnect* means a link by various technical means to other cable systems for purposes of program distribution.
- (24) *Leased access channels* means any channel or portion of a channel available for programming for a fee or charge by persons or entities other than the Cable Operator.
- (25) *Local origination channel* means any channel or portion of a channel which is programmed by the Cable Operator.
- (26) *Normal business hours* means those hours during which most similar businesses in the community are open to serve customers. Normal business hours includes some evening hours at least one night per week and/or some weekend hours.
- (27) *Normal operating conditions* means those service conditions which are within the control of the Cable Operator. Those conditions which are not within the control of the Cable Operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Cable Operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular or seasonal demand periods, and maintenance or upgrade of the cable system.
- (28) *Pay-per-view (PPV)* means per-event video programming for which the Subscriber pays over and above the fee for regular cable service.
- (29) *Premium services* means video programming over and above those provided by basic services for which there is additional charge.
- (30) *Property of the Cable Operator* means all property owned, installed or used by a Cable Operator in the conduct of a cable business in the City under the authority of a franchise granted pursuant to this article.
- (31) *Proposal* means the response, by an individual or organization, to a request by the City regarding the provision of cable services; or an unsolicited plan submitted by an individual or organization seeking to provide cable services in the city.
- (32) *Public way* means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Cable Operator to the use thereof for the purpose of installing or transmitting the Cable Operator's cable service or

other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the cable system.

- (33) *Service interruption or loss of service* means the loss of picture or sound on one or more cable channels.
- (34) *Subscriber* means a person or user of the cable system who lawfully receives cable services or other service therefrom with the Cable Operator's express permission.
- (35) *Video programming* means programming provided by or generally considered comparable to programming provided by a television broadcast station.

**Sec. 5.90.805. Regulation of basic service rates and charges.**

- (a) The City may regulate rates except to the extent prohibited by state and federal law.
- (b) In connection with state and federal law, as set forth in paragraph (a) above, the City will ensure a reasonable opportunity for consideration of the views of interested parties.
- (c) The City Manager, or his designees, is authorized to execute on behalf of the City and file with the FCC such certification forms or other instructions as are now or may hereafter be required by the FCC rate regulations in order to enable the City to regulate basic service rates and charges.
- (d) Each Cable Operator shall file with the City Clerk an up-to-date rate schedule and user rates, fees and charges for all cable services and products provided at least thirty (30) days before the changes go into effect.

**Sec. 5.90.810. Terms.**

(a) *Authority to grant franchises or licenses for cable television:* It shall be unlawful to engage in or commence construction, operation, or maintenance of a cable television system without a franchise issued under this article or a franchise granted prior to the adoption of this article. The Council may award a nonexclusive franchise to construct, operate and maintain a cable television system which complies with the terms and conditions of this article subject to federal, state and local laws.

Any franchise granted pursuant to this article shall be nonexclusive and shall not preclude the City from granting other or further franchises or permits or preclude the City from using any roads, rights-of-way, streets or other public properties or affects its jurisdiction over them or any part of them; or limit the full power of the City to make all necessary changes, as the City in its sole discretion shall decide, including the dedication, establishment, maintenance and improvements of all new rights-of-way and thoroughfares and other public properties of any type. All franchise agreements granted subsequent to the effective date of this master cable ordinance shall be granted consistent with the terms and conditions of this article.

(b) *Nature and extent of the franchise:* Any franchise granted hereunder by the City shall authorize the Cable Operator, subject to the provisions herein contained:

- (1) To engage in the business of operating and providing cable service and the distribution and sale of such service to subscribers within the city;
- (2) To erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any street, such amplifiers and appliances, lines, cables, conductors, vaults, manholes, pedestals, attachments, supporting structures, and other property as may be necessary and appurtenant to the cable communications system and, in addition, so to use, operate, and provide similar facilities, or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other Cable Operator franchised or permitted to do business in the city;
- (3) No privilege or exemption shall be granted or conferred upon the Cable Operator by any franchise except those specifically prescribed therein, and any use of any street consistent with any prior lawful occupancy of the street or any subsequent improvement or installation therein.

#### **Sec. 5.90.815. Violation—Penalty**

(a) Any notice of violation issued pursuant to this Ordinance shall be adjudicated in accordance with the provisions of the Reno Municipal Code, Sec. 1.05.005 et. seq.

(b) In addition to any other remedies provided for in this article or otherwise available by law, the City's hearing officer shall have the power to impose monetary penalties in the event a Cable Operator violates any provision of this article or other provision of the municipal code, a franchise agreement, or any rule or regulation lawfully adopted thereunder. The amounts of such penalties shall be based on the following principles:

- (1) Penalties shall exceed the financial benefits to a Cable Operator delaying or failing to comply with the applicable requirement;
- (2) Even where such benefits are not easily discernible, the penalties shall be high enough to have a significant deterrent effect on a Cable Operator; and
- (3) Penalties shall be sufficient to protect the City and other affected parties against loss of revenues resulting from violations.

(c) A franchise shall also provide for fines, liquidated damages and other monetary sanctions, the amounts of which shall also reflect the foregoing principles.

~~(d) Private Suit Against Cable Operator:~~

- ~~(1) Any Subscriber adversely affected by a violation, or by a pattern and practice of violations, shall have the right to sue a Cable Operator in a court of competent jurisdiction for damages and for injunctive and other relief to require enforcement of the franchise. Organizations shall be entitled to sue on behalf of themselves or their members.~~
- ~~(2) The remedy herein provided shall be in addition to any remedies provided by law.~~
- ~~(3) Except in emergency situations in which immediate relief is required, private litigants shall notify the City Attorney not fewer than ten days prior to filing suit. However, suit by the City shall not preempt the private litigant's right to proceed.~~

**Sec. 5.90.820. Application for new franchise.**

An applicant for a new franchise to construct, operate, and maintain a cable television system within the city shall file an application as required by the City. The application shall be accompanied by a nonrefundable filing fee in an amount of \$7,500. Such fee may be used as partial payment of franchise fees provided that all direct costs incurred by the City in the franchising process have been paid; otherwise such filing fee will be applied to any such unreimbursed costs.

The City shall require information in a cable franchise application pertaining but not limited to the following:

- (1) *Experience*: Detailed description of the applicant's experience in providing cable service to other municipalities.
- (2) *Financial*: Copies of annual reports and pro forma financial projections pertaining to the requested franchise.
- (3) *Character*: Full disclosure by the applicant of any criminal convictions or other misconduct affecting Cable Operator's performance including false/misleading advertising, perjury, anti-trust violations as well as data pertaining to civil proceedings, if any, pertinent to the City's evaluation of the applicant.
- (4) *Conflicts of interest*: The nature of any potential conflict of interest will be required.

**Sec. 5.90.830. Plans and specifications.**

Each application for a new franchise shall include detailed plans and specifications for the cable television system to be installed. Upon completion, the applicant shall file "as built" plans with the City Clerk—in both hard copy and electronic mapping format compatible with the current City electronic mapping format—showing the detailed location of all underground cable plant and active electronics, including but not limited to, all transmitting and receiving pickup locations, the fiber and coaxial plant, and coaxial amplifiers and pedestal locations.

**Sec. 5.90.840. Hearing.**

After the application for a new franchise has been received, the City Council shall conduct a public hearing and shall consider the following factors among others in granting said franchise:

- (1) That the public will be benefited by the granting of a franchise to the applicant;
- (2) The economic impact upon private property within the franchise area;
- (3) That the applicant has the necessary financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the applicant's proposal, and
- (4) That the applicant's proposal is reasonable to meet the future cable-related community needs and interests taking into account the cost of meeting such needs and services;

- (5) That the applicant is capable of complying with all relevant federal, state and local regulations pertaining to the construction, operation and maintenance of the facilities and systems incorporated in its application for a franchise;
- (6) The capacity of public rights-of-way to accommodate the cable systems;
- (7) The present and future use of the public rights-of-way to be used by the cable system;
- (8) The potential disruption to existing users of the public rights-of-way to be used by the cable system and the resultant inconvenience which may occur to the public;
- (9) The applicant has substantially complied with the material terms and applicable law in other franchises that may have been granted in other jurisdictions, if applicable;
- (10) The quality of the applicant's service has been reasonable in the light of the needs of other communities that the applicant has provided service, if applicable;
- (11) Other societal interests as are generally considered in cable television franchising;
- (12) Other matters that the City may determine to be relevant to the public interest.

**Sec. 5.90.850. Franchise renewal.**

A cable franchise renewal shall be conducted in accordance with the Cable Act.

**Sec. 5.90.870. Police power.**

In accepting any franchise, the Cable Operator acknowledges that its rights hereunder are subject to the lawful police power of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and it agrees to comply with all applicable general laws enacted by the City pursuant to such power.

**Sec. 5.90.880. Construction requirements.**

(a) Duty to report: Commencing at the end of the first full calendar quarter following the issuance of a new franchise pursuant to the provisions of this article, and continuing every calendar quarter thereafter until the date cable television services are made available to 100 percent of the dwelling units within each franchise area, the Cable Operator shall file with the City Clerk a written declaration identifying the number and percentage of dwelling units in each franchise area to which such services have been made available as of the last day of the quarter for which the declaration is made. Upon request the Cable Operator shall make available to the City such maps, documents and other data as were used by the Cable Operator to compile the aforesaid declaration.

Cable Operator shall provide City the opportunity to inspect at its office any information which is considered proprietary and confidential or competitively sensitive, however, City may not copy or remove said documents. Said quarterly declarations shall be filed not later than the first day of the second calendar month following the end of the quarter for which the report is filed.

(b) Completion of new franchise:

(1) A final order of completion shall be issued by the City Council when:



- a. Construction of the cable television system under a new franchise agreement has been completed within the entirety of each franchise area in compliance with construction standards and the design and other requirements of this article;
  - b. Cable television services have been made available to 100 percent of the dwelling units within each franchise area;
  - c. Any and all studio facilities, equipment, channels and other services, resources or benefits required for public, educational, and governmental access purposes pursuant to the provisions of this article or the franchise agreement have been completed and made available;
  - d. Complete and accurate "as built" plans pursuant to section 5.90.830 have been filed by the Cable Operator with the City Clerk; and
  - e. A notice of completion has been filed by the Cable Operator.
- (2) For purposes of this article, cable television service shall be deemed to be made available when cable television services are offered on a nondiscriminatory basis for immediate provision to the owner or legal representative of the owner empowered to consent to use of the property of such individual dwelling units.
- (3) During the period of new construction of the cable television system and the 60-day period following the filing of the notice of completion, all elements and components thereof, and all equipment and studio facilities required by the franchise documents shall be subject to inspection by City employees or authorized agents or representatives thereof, for the purpose of determining whether the system and related facilities comply with the franchise and the provisions of this article. The Cable Operator shall authorize such inspection and provide such information and cooperation as is required in order to permit an adequate investigation to determine the existence or nonexistence of such compliance.

**Sec. 5.90.885. Construction notification.**

The city may establish reasonable minimum requirements for advance notification to residents adjacent to proposed construction areas.

**Sec. 5.90.890. Communications with regulatory agencies.**

The Cable Operator shall maintain a list and description of all regular, special and non-routine communications filed with regulatory agencies regarding the cable television systems within the City, which shall be filed with the City Clerk on a quarterly basis within fifteen (15) days following the end of each calendar quarter. Copies of any petitions, applications, communications, and reports submitted by the Cable Operator to the FCC, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting construction or operation of the cable television system or services provided through the system, shall be filed upon request with the City Clerk. Copies of responses or any other communications from the regulatory agencies to the Cable Operator, shall likewise be filed upon the request of the City Manager or designee with said Clerk.

**Sec. 5.90.900. Technical standards.**

The Cable Operator shall, at a minimum, comply with technical standards of the FCC Regulations Part 76, Subpart K.

**Sec. 5.90.910. Access availability.**

If more than one Cable Operator provides service in the City of Reno, the Cable Operators shall cooperate with one another in making available their signal distribution capabilities for the public, educational, and government access channels if one Cable Operator should so request. The expense of labor and material to effectuate such a juncture shall be the responsibility of the Cable Operator requiring such services. Further, the requesting Cable Operator shall indemnify and hold harmless the Cable Operator furnishing the services from all damages and liabilities of whatever nature stemming from the requesting Cable Operator's use thereof.

**Sec. 5.90.920. System capability and standards.**

- (a) General capability: Each cable television system shall, at minimum:
  - (1) Relay to Subscriber terminals those broadcast signals required by the FCC;
  - (2) Distribute in color all television signals which it receives in color;
  - (3) As per FCC requirement, make available upon request by any subscribers receiving channels showing premium services and pay per view events, a lockout device which prevents the unauthorized viewing of such channels.
- (b) Standby/Emergency power: Each cable television system shall include equipment capable of providing standby power for the headend. The equipment shall be so constructed as to automatically notify the Cable Operator when it is in operation or to automatically revert to the standby mode when the AC power returns.
- (c) Technical standards: Each Cable Operator shall construct, install and maintain its cable television system in a manner consistent and in compliance with all applicable laws, ordinances, construction standards, governmental requirements, and technical standards equivalent to, at a minimum, those established by the FCC. Each Cable Operator shall provide to the City Clerk written reports of the Cable Operator's annual proof of performance tests conducted pursuant to FCC standards and requirements.
  - (1) Each Cable Operator shall at all times comply with the National Electrical Safety Code (National Bureau of Standards); National Electrical Code (National Bureau of Fire Underwriters); applicable FCC and other federal, state and local regulations; and codes and other ordinances of the City.
  - (2) In any event, the cable television system shall not endanger or interfere with the safety of persons or property within the city or other areas where the Cable Operator may have equipment located.
  - (3) All working facilities, conditions, and procedures used or occurring during construction of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.

- (4) Construction, installation and maintenance of the cable television system shall be performed in an orderly and workmanlike manner, and in close coordination with public and private utilities serving the city following accepted construction procedures and practices.
- (5) All cable and wires shall be installed, where possible, parallel with electric and telephone lines, and multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering consideration.
- (6) Any antenna structure used in the cable television system shall comply with construction, marking and lighting of antenna structures required by the United States Department of Transportation.

**Sec. 5.90.930. Leased access channels.**

The Cable Operator shall be in compliance with Section 612 of the Cable Act.

**Sec. 5.90.950. Restrictions and obligations regarding street rights.**

(a) The following restrictions and obligations in the use or construction of streets shall be complied with by the Cable Operator notwithstanding the grant to use streets made by the franchise.

- (1) Nothing in the franchise shall be construed to prevent the City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating or repairing any sidewalk or other public work. The City shall exercise best efforts to ensure that all such work is done in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, ducts, pipes or appurtenances of the Cable Operator. If any such property of the Cable Operator shall interfere with the construction or relocation, maintenance or repair of any street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, water main, street or any other public improvement, thirty (30) days notice shall be given to the Cable Operator by the City and all such poles, wires, conduits, or other appliances and facilities shall be removed or replaced by the Cable Operator in such manner as shall be directed by the City so that the same shall not interfere with the said public work of the City and such removal or replacement shall be at the expense of the Cable Operator.
- (2) The Cable Operator shall construct and maintain the system so as not to unreasonably interfere with other uses of streets.
- (3) If the City shall make improvements or changes on all or any parts of streets, sewer, water main or public sidewalk, over, under or along which any part of the system has been installed, then in such case the Cable Operator shall, after 30 days notice from the City, proceed to alter, change, vacate or remove from the right-of-way or easement any part of the Cable Operator's system necessary to conform with said City improvements or changes without cost whatsoever to the City.

(b) The Cable Operator shall have the option to request and the City shall not unreasonably withhold the extending of deadlines for removal of the system due to the Cable Operator's need to purchase equipment or on a showing of some other legitimate need for an extension of time.

**Sec. 5.90.990. New developments, future services.**

In the case of new developments where utilities are to be placed underground, the developer shall have the responsibility for insuring that cable service is made available to that new development by providing the cable company with at least four weeks advance notice of any construction or development, including a copy of any final plan, and of the particular date on which open trenching or other facilities shall be available for the Cable Operator's installation of cable. The developer shall be solely responsible for the cost of opening and closing of such trenches and for the installation of conduit. Upon request the Cable Operator shall also provide specifications to the developer as needed for trenching, or other technical data that may be required.

If technical equipment such as prewiring or distribution system is installed by the developer, it is the developer's responsibility to make certain that such equipment meets FCC as well as state, City and the Cable Operator's standards.

**Sec. 5.90.1000. Movement of facilities.**

Whenever any person shall have obtained permission from the City to use any street for the purpose of moving any large object, vehicle, building or other structure, a Cable Operator, upon seven days written notice from the City Manager or his designee, shall raise or remove, at the expense of that person desiring to move the large object, vehicle, building or other structure, any of its or their wires which may obstruct the removal of such large object, vehicle, building or other structure provided that the moving of such large object, vehicle, building or other structure shall be done in accordance with regulations and general ordinances of the City, including but not limited to, RMC § 14.22.010, et. seq. Where more than one street is available for the moving of such building, the building shall be moved on such street as shall cause the least interference with the lines of the Cable Operator and other franchise holders. It is further provided that the person or persons moving such building shall indemnify and save harmless said Cable Operator of and from any and all damages or claims of whatsoever kind or nature caused directly or indirectly for such temporary arrangement of the lines and poles of the franchise.

**Sec. 5.90.1010. Tree trimming.**

Upon the City's Manager's or his designee's written approval, which shall not be unreasonably withheld, the Cable Operator shall have the authority to trim trees upon and overhanging public streets and ways and places so as to prevent the branches of such trees from coming in contact with the wires and cables of the Cable Operator and if necessary to clear the microwave path. The Cable Operator shall be responsible for debris removal from such activities. At the option of the City, and with advance written notice and approval by the Cable Operator, which shall not be unreasonably withheld, such trimming may be done by the City or under its supervision and direction, with reasonable costs to be borne by the Cable Operator.

#### **Sec. 5.90.1011. Customer Service.**

(a) *Courtesy.* All employees, contractors, subcontractors, and agents of the Cable Operator shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contacts with Subscribers.

(b) *Service Center.* The Cable Operator shall provide at least one customer service center or business office (the "Service Center") within a 10 mile radius of Reno City Hall. The Service Center shall be open Monday through Friday from 8:00 a.m. to 6:00 p.m., and shall be open from 9:00 am to 1:00 p.m. on Saturdays. The Service Center shall be fully staffed, during the hours noted above, with trained and experienced customer service representatives and shall offer services including but not limited to: bill payment, equipment exchange, processing of change of service requests, and response to Subscriber inquiries and requests. The Cable Operator shall post a sign at each Service Center advising customers of its hours of operation and of the addresses and telephone numbers at which to contact the Cable Operator if the office is closed. The hours of operation and location of the Service Center shall also be printed prominently on all billing statements.

(c) *Telephones.* The Cable Operator shall maintain local, toll-free, and/or call collect telephone numbers and access lines that shall be available twenty-four (24) hours a day, seven (7) days a week for service/repair requests and billing inquiries and CSRs shall be on duty or on call to initiate after-hours service and repair calls. The Cable Operator shall have customer service technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays, who will be dispatched to respond to urgent and emergency service and repair calls after-hours. The Cable Operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to service/repair and billing inquiry lines are answered by a customer service representative within thirty (30) seconds or less, and that any transfers are made within thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time measured monthly. The percentage of calls receiving busy signals shall not exceed three percent (3%) of the total telephone calls. This standard shall be met ninety percent (90%) or more of the time measured monthly with reports submitted to the City Clerk on a quarterly basis. All Customer Service Representatives shall identify themselves to callers immediately following the greeting during each telephone contact with the public. Customer service telephone numbers and hours of operation shall be printed prominently on all billing statements.

(d) *Facsimile Machine ("FAX").* The Cable Operator shall maintain, twenty-four (24) hours per day and seven (7) days per week, a facsimile machine accessible via a local telephone number which Subscribers may use to convey service and repair requests to the Cable Operator's customer service department. Such requests received by FAX shall be processed and handled in the same manner as Subscriber service requests that are received by telephone. The FAX access lines shall be subject to the same requirements as mentioned above for telephone services shall be measured, similarly, on a monthly basis. Customer service FAX numbers and hours of operation shall be printed prominently on all billing statements.

(e) *Electronic Mail ("E-mail").* The Cable Operator shall maintain, twenty-four (24) hours per day and seven (7) days per week, an E-mail address accessible via the internet

which Subscribers may use to convey service and repair requests to the Cable Operator's customer service department. Such requests received by E-mail shall be processed and handled in the same manner as customer service requests that are received by telephone. Customer service E-mail addresses and hours of operation shall be printed prominently on all billing statements.

(f) *Guaranteed Seven-Day Standard Installation.* The Cable Operator shall complete all standard installations requested by Subscribers within seven (7) business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five (125) feet from the existing distribution system. If the Subscriber requests a nonstandard residential installation, or the Cable Operator determines that a nonstandard residential installation is required, the Cable Operator shall provide the Subscriber in advance with a total installation cost estimate and an estimated date of completion. All underground cable drops from the curb to the home shall be buried at a depth of no less than twelve inches (12"), and within no more than one calendar week from the initial installation unless inclement weather occurs within that calendar week and then within no more than two calendar weeks from the initial installation, or at a time mutually agreed upon between the Cable Operator and the Subscriber.

(g) *Tracking of Service and Repair Requests.* The Cable Operator shall operate and maintain a system to record all Subscriber requests for service and repairs and the efforts undertaken by the Cable Operator to fulfill, individually, every Subscriber request (the "Tracking System"). A description of all Cable Operator efforts related to a particular customer service matter, including but not limited to, the efforts undertaken by customer service representatives, supervisors, dispatchers, field technicians, contractors, sub-contractors, and management to provide or cause to provide services and repairs related to each matter, shall be recorded and maintained so as to provide a comprehensive list or description of all of the Cable Operator's efforts undertaken to fulfill each service or repair request. The information recorded within the tracking system shall be made available to all customer service representatives for the purpose of providing informative responses to Subscriber inquiries related to the status of requested service and repairs. Furthermore, Cable Operator's Customer Service Representatives shall be fully trained in the use of the tracking system and the information maintained therein so that they are able to utilize the system to provide complete and accurate information to Subscribers and potential Subscribers related to service and repair matters. The City shall, upon request, have access to the tracking system and the detailed records of the system for the purpose of:

- (1) Auditing the reliability and integrity of the system and the information it contains, and
- (2) Determining or inquiring about the status of efforts undertaken by the Cable Operator related to specific service requests.

(h) *Problem Resolution.* The Cable Operator's customer service representatives shall have the authority to provide credit for interrupted service, waive fees, schedule service appointments, and promptly forward service and repair requests to appropriate management and/or dispatchers for appropriate corrective action. Any Subscriber shall

be entitled, upon request, oral or written, to Cable Operator to a refund equal to one day's service for each Subscriber's loss of service caused by Cable Operator: (1) for each continuous 24-hour period or (2) a total of two or more hours of any four days within a monthly billing period. Any difficulties that cannot be resolved by the customer service representative shall be immediately referred to the appropriate supervisor who shall, if the problem was reported during normal business hours, contact the Subscriber within four (4) hours. Otherwise, the appropriate supervisor shall contact the Subscriber no later than the following business day. The appropriate supervisor shall resolve the problem within twenty-four (24) hours, or within such other time frame as is acceptable to the Subscriber and the Cable Operator. Any difficulties that cannot be resolved by the appropriate supervisor shall be immediately referred to the City.

**Sec. 5.90.1012. Standard Installation and Service Appointments.**

(a) *Service Appointment Times.* Subscribers requesting cable installation or service may choose any two-hour block of time mutually agreed upon by the Subscriber and the Cable Operator between the hours of 8:00 a.m. and 5:00 p.m.

(b) *Cancellation of Service Appointments.* Under normal operating conditions, the Cable Operator may not cancel an appointment with a Subscriber after the close of business on the day before the scheduled appointment. In cases where an appointment has been canceled, the Cable Operator shall immediately offer the Subscriber the next available appointment. Cable Operator shall exercise best efforts to schedule a new appointment within twenty-four (24) hours.

(c) *Customer Satisfaction Follow-up.* With respect to service installation and work completed, ~~on an ongoing basis throughout the term of this franchise~~ the Cable Operator shall ~~conduct~~ contact a customer representative sample, no less than 25% of all customer's who receive service each week, to assess and assure satisfaction ~~survey approved by the City as to form and content of.~~ Cable Operator shall maintain a statistically valid data base of all responses, and reliable sample size to assure Subscriber's satisfaction. ~~All~~ responses shall be recorded, and retained by the Cable Operator, and made easily available to the City upon request for a period of three (3) years.

(d) *Effect of Customer Absence on Cable Operator Compliance.* The Cable Operator shall be deemed to have responded to a request for service under the provisions of this section when:

- (1) A technician arrives within the agreed upon time, **and**
- (2) If the Subscriber is absent when the technician arrives, the technician leaves written notification of arrival and return time, **and**
- (3) A copy of that notification is kept by the Cable Operator for three (3) years.

**Sec. 5.90.1013. Service Interruptions.**

(a) *Service Interruptions – Generally.* All service interruptions resulting from Cable Operator equipment failure, which are in the control of the Cable Operator and excluding such equipment that is located within Subscriber's residences or commercial establishments, shall be corrected within twenty-four (24) hours from the time that the Cable Operator is first made aware of such outage unless conditions exist beyond the

control of the Cable Operator in which case the Cable Operator shall restore service within twenty-four (24) hours after the conditions beyond its control have been corrected.

(b) *System Outages.* In the event of service interruptions causing the loss of reception on all channels ("System Outages") affecting three (3) or more Subscribers, the Cable Operator shall begin working to correct such failure within two (2) hours after the third (3<sup>rd</sup>) Subscriber call is received.

(c) *Scheduled Interruptions.* Scheduled interruptions shall be preceded by reasonable notice to the City and to affected Subscribers and shall occur during periods of minimum use of the system, preferably between midnight and six a.m. (6:00 a.m.). The Cable Operator shall render efficient service, make repairs and improvements promptly, and interrupt service only for good cause and for the shortest time possible.

(d) *Log of Service Interruptions.* Consistent with federal and state law, a log of all service interruptions within the City shall be maintained on a quarterly basis by the Cable Operator and provided to the City Clerk within 15 days following the end of every quarter, i.e., March, June, September and December.

#### **Sec. 5.90.1014. Signal Quality.**

(a) *Signal Quality To Meet Or Exceed FCC Technical Standards.* The Cable Operator shall provide clear signal quality that meets or exceeds technical standards established by the FCC.

(b) *Cable Operator to Repair Poor Signal Quality.* If a Subscriber experiences poor signal quality attributable to the Cable Operator's equipment or operation thereof, and the Subscriber provides the Cable Operator with the required access to his dwelling unit, the Cable Operator shall fully investigate the problem within twenty-four (24) hours, and repair the problem within forty-eight (48) hours following the Subscriber call. If an appointment is necessary, Subscriber may choose the same blocks of time described above. At the Subscriber's request, the Cable Operator shall repair the problem at a later time convenient to the Subscriber.

#### **Sec. 5.90.1015. Billing, Credits and Refunds.**

(a) *Payment Period.* The Cable Operator shall allow at least twenty five (25) days from the beginning date of the applicable service period for payment of a Subscriber's service bill for that period. If a Subscriber's service bill is not paid within that period of time the Cable Operator may charge a reasonable administrative fee, i.e., no more than the cost of actually administering the late payment, to the Subscriber's account. If a Subscriber's service bill is not paid within sixty (60) days of the beginning date of the applicable service period, the Cable Operator may disconnect the Subscriber's service, provided it has given ten (10) days prior written notice to the Subscriber that such disconnection may result.

(b) *Credits And Refunds Are To Be Issued In A Timely Manner.* The Cable Operator shall issue a credit or refund to a Subscriber no later than either the Subscriber's next billing cycle following resolution of the request or thirty (30) days after determining the Subscriber's entitlement to a credit or refund, whichever is earlier. .



(c) *Log of Credits and Refunds.* A log of all credits and refunds for Subscribers within the City shall be maintained on a monthly basis by the Cable Operator and provided to the City Clerk within fifteen (15) days following the end of each ~~month~~quarter.

**Sec. 5.90.1016. Treatment of Private Property.**

(a) *Trees and Shrubs.* The Cable Operator shall keep tree trimming to a minimum; trees and shrubs or other landscaping that are damaged by the Cable Operator, any employee or agent of the Cable Operator during installation or construction shall be restored to their prior condition or replaced. Trees and shrubs shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located.

(b) *Property Damages and Restoration.* The Cable Operator shall, at its own cost and expense, and in a manner approved by the property owner and the City, restore any property to as good condition as before the work causing such disturbance was initiated. The Cable Operator shall repair, replace or compensate a property owner for any damage resulting from the Cable Operator's installation, construction, service or repair activities.

(c) *Reasonable Notice of Work On Private Premises Required.* Except in the case of an emergency involving public safety or service interruption to a large number of Subscribers, the Cable Operator shall give reasonable notice to property owners, legal tenants, property managers, and/or community interest community managers, as applicable, prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided in writing at least twenty-four (24) hours prior to entry. Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law. If damage is caused by any Cable Operator activity, the Cable Operator shall reimburse the property owner one hundred percent (100%) of the cost of the damage or replace the damaged property. For the installation of pedestals or other major construction or installation projects, property owners shall also be notified in writing at least twenty-four (24) hours in advance. In the case of an emergency, the Cable Operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made.

(d) *Worksites are to be Kept Clean and Refuse is to be Disposed of in an Appropriate Manner.* Cable Operator personnel shall clean all areas surrounding any work site and ensure that all refuse and excess materials have been disposed of properly on a daily basis.

**Sec. 5.90.1017. Service for Customers with Disabilities.**

(a) *Equipment Pickup And Delivery Required For Customers With Disabilities.* For any Subscriber with a disability, the Cable Operator shall at no charge deliver and pick up cable equipment at Subscribers' homes. In the case of a malfunctioning cable device, the technician shall provide a replacement device, hook it up and ensure that it is working properly, and shall return the defective device to the Cable Operator.

(b) *Telecommunication Device for the Deaf or Hearing Impaired (TDD) Services Required.* The Cable Operator shall provide, at no charge, TDD service with trained operators who can provide every type of assistance rendered by the Cable Operator's customer service representatives for any hearing-impaired Subscriber upon request by such Subscriber or Subscriber's representative.

~~(c) *Free Use Of Remote Control Required For Mobility Impaired Customers.* The Cable Operator shall provide free use of a remote control unit to mobility-impaired Subscribers.~~

~~(d)(c)~~ *Requests for Special Services.* Any Subscriber with a disability may request the special services described above by providing the Cable Operator with a letter from the Subscriber's physician stating the need, or by making the request to the Cable Operator's installer or service technician, where the need for the special services can be visually confirmed.

#### **Sec. 5.90.1018. Customer Information and Notices.**

(a) *Notices And Information Required To Be Provided By The Cable Operator To Customers.* Upon installation, at least annually thereafter, and at any time the Subscriber may request, the Cable Operator shall provide all of the following information, in clear, concise written form:

- (1) Products and services offered by the Cable Operator;
- (2) The channel positions of programming carried on the cable system;
- (3) Prices and options of services and conditions of subscription to services;
- (4) The Cable Operator's billing, collection, installation, service, maintenance, credit for outages, and disconnection policies;
- (5) Subscriber privacy policies;
- (6) Billing and complaint procedures including complaint forms, the location of local Service Centers, telephone numbers, FAX numbers, E-mail addresses, and mailing addresses of the Cable Operator, the FCC, and the City to whom the complaints should be addressed;
- (7) Instruction on the use of cable TV services;
- (8) The availability of parental control devices;
- (9) Special services available for Subscribers with disabilities.

(b) Upon installation and at any time the Subscriber may request, the Cable Operator shall provide the following information at no charge, in clear, concise written form:

- (1) Instructions for hookup and use of common consumer electronic equipment including, but not limited to:
  - a. Standard television hookups;
  - b. Standard VCR hookups;
  - c. Standard DVD hookups;

- d. Standard Video Game hookups;
  - e. Standard Picture-in-Picture hookups.
- | (2) Instructions for hookups and use of all equipment provided by the Cable Operator including, but not limited to:
  - a. Digital Converters;
  - b. Remote Control devices;
  - c. A/B switches;
  - d. Parental control/lock out devices;
  - e. Any other devices that the Cable Operator provides for Subscriber use.
- | (c) *Copies of Customer Service Standards.* At any time the Subscriber may request, the Cable Operator shall provide a copy of this Ordinance and any other applicable customer service standards;
- | (d) *Notice Of Changes In Rates, Programming, Or Channel Positions Required 30 Days In Advance.* The Cable Operator shall provide Subscribers with written notification of any change in rates, programming, or channel positions, at least thirty (30) days before the effective date of change.
- | (e) *Copies of Customer Notices Must Be Provided To City.* Copies of all Subscriber notices specified in subsections 5.90.1018(a), (b) and (d) shall be provided concurrently or preferably, in advance, to the City Clerk by mail, delivery service, fax, or electronic mail.
- | (f) *Identification Required For Certain Cable Operator Employees And Vehicles.* All officers, agents, and employees of the Cable Operator or its contractors or subcontractors who are in personal contact with cable Subscribers shall wear on their outer clothing identification cards bearing their name and photograph. The Cable Operator shall account for all identification cards at all times. Every vehicle of the Cable Operator shall be clearly visually identified to the public as working for the Cable Operator. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the Cable Operator.
- | (g) *Notice of Cost Estimate to Be Provided By Cable Operator Prior To Providing Work or Service.* Each Customer Service Representative, technician, agent, or employee of the Cable Operator in each contact with a Subscriber shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the Subscriber with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed.

**Sec. 5.90.1019. Customer Privacy.**

- | (a) At the time of entering into an agreement to provide any cable service or other service to a Subscriber and at least once a year thereafter, a Cable Operator shall provide

notice in the form of a separate, written statement to such Subscriber which clearly and conspicuously informs the Subscriber of:

- | (1) The nature of personally identifiable information collected or to be collected with respect to the Subscriber and the nature of the use of such information;
- | (2) The nature, frequency, and purpose of any disclosure which may be made of such information, including any identification of the types of persons to whom the disclosure may be made;
- | (3) The period during which such information will be maintained by the Cable Operator;
- | (4) The times and place at which the Subscriber may have access to such information in accordance with subsection (a)(2) of this section; and
- | (5) The limitations provided by this section with respect to the collection and disclosure of information by a Cable Operator and the right of the Subscriber under subsections (i) and (j) to enforce such limitations.
- | (b) For purposes of this section, the term "personally identifiable information" does not include any record aggregate data which does not identify particular persons. The term "other service" includes any wire or radio communications service provided using any of the facilities of a Cable Operator that are used in the provision of cable service.
- | (c) Except as provided in subsection (d) of this section, a Cable Operator shall not use the cable system to collect personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned, and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the Subscriber or Cable Operator.
- | (d) A Cable Operator may use the cable system to collect personal identifiable information in order to:
  - | (1) Obtain information necessary to render a cable service or other service provided by the Cable Operator to the Subscriber; or
  - | (2) Detect unauthorized reception of cable communications.
- | (e) Except as provided in subsection (f) of this section, a Cable Operator shall not disclose personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned.
- | (f) A Cable Operator may disclose such information if the disclosure is:
  - | (1) Necessary to render, or conduct a legitimate business activity related to a cable service or other service provided by the Cable Operator to the Subscriber;
  - | (2) Subject to subsection (j), made pursuant to a court order authorizing such disclosure, if the Subscriber is notified of such order by the person to whom the order is directed; or;
  - | (3) A disclosure of the names and addresses of Subscribers to any cable service or other service, if:

- a. The Cable Operator has provided the Subscriber the opportunity to prohibit or limit such disclosure, and
  - b. The disclosure does not reveal, directly or indirectly, the extent of any viewing or other use by the Subscriber of a cable service or other service provided by the Cable Operator; or, the nature of any transaction made by the Subscriber over the cable system of the Cable Operator.
- | (g) A Subscriber shall be provided, free of charge, access to all personally identifiable information regarding that Subscriber which is collected and maintained by a Cable Operator. Such information shall be made available to the Subscriber at reasonable times and at a convenient place designated by Cable Operator. A cable Subscriber shall be provided reasonable opportunity to correct any error in such information.
- | (h) A Cable Operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (g) or pursuant to a court order.
- | (i) Any person aggrieved by any act of a Cable Operator in violation of this section may bring a civil action in a court of general jurisdiction, as provided in Section 631 of the Cable Act.
- | (j) Nothing in this chapter shall be construed to prohibit the City from enacting or enforcing additional laws consistent with this section for the protection of Subscriber privacy.
- | (k) A governmental entity may obtain personally identifiable information only if, in the court proceeding relevant to such court order:
- (1) Such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and
  - (2) The subject of the information is afforded the opportunity to appear and contest such entity's claim.

**Sec. 5.90.1020. Safety.**

- | (a) The Cable Operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property.
- | (b) The Cable Operator shall, at all times, employ professional care and shall install and maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.
- | (c) Whenever the Cable Operator receives notice that an unsafe condition exists with respect to its equipment, the Cable Operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.
- | (d) All structures and all lines, equipment and connections in, over, under and upon the streets, sidewalks, alleys, and public ways or places of the franchise area, wherever

situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

(e) The City reserves the general right to see that the system of the Cable Operator is constructed and maintained in a safe condition. If an unsafe condition is found to exist by the City, it may order the Cable Operator to make necessary repairs immediately from the receipt of the City's notification stating the exact nature thereof and, if not so made, the City may make the repairs itself or have them made and collect all reasonable costs thereof from the Cable Operator.

#### **Sec. 5.90.1021. Satisfaction Guaranteed.**

Any Subscriber who requests disconnection of new service within thirty (30) days from its date of activation shall receive a credit to his/her account in the amount of one month's subscription charge for the service that has been disconnected but not to exceed the amount that such Subscriber paid for the new service excluding installation fees.

#### **Sec. 5.90.1022. Complaints and Security Fund.**

(a) *Cable Operator Shall Maintain and Make Available Accurate Records of Customer Complaints.* The Cable Operator shall, in a manner consistent with the privacy rights of Subscribers and federal and state law, keep accurate and comprehensive files of any and all complaints regarding the cable system, operation of the cable system, and the Cable Operator's actions in response to those complaints. These files shall remain open to the City and the public during normal business hours. Cable Operator shall provide the City Clerk an executive summary monthly, which shall include information concerning Subscriber complaints. A summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the Cable Operator for each month and submitted to the City, upon request, by the fifteenth (15<sup>th</sup>) day of the following month. The Cable Operator shall retain, and make available to the City Clerk the records and reports specified in this section for a period of three (3) years.

(b) *Security Fund.* Within thirty (30) days of the effective date of any franchise granted by the City, or renewal thereof, the Cable Operator shall supply a commercial surety bond to the City in a form approved by the City for a reasonable amount of money to protect Subscribers within its jurisdiction. Such reasonable amount shall be the greater of:

- (1) One hundred thousand dollars (\$100,000.00) or
- (2) One dollar per Subscriber within the franchise area. The number of Subscribers within the franchise area shall be determined and documented by the Cable Operator as of the effective date of each franchise granted or renewed and shall be updated on January 1<sup>st</sup> of each year thereafter.

The surety bond shall constitute a "Security Fund" for ensuring compliance with this Ordinance for the benefit of the City and the Subscribers within the Franchise Area. The surety bond shall be maintained by the Cable Operator at one hundred thousand dollars (\$100,000.00), or such greater amount accepted by the City, even if amounts are withdrawn pursuant to any provision of this Ordinance. At any time during the term of this agreement, the City may require the Cable Operator to increase the amount of the

Security Fund, if it finds that new risk factors exist, which necessitate such an increase. The Security Fund shall serve as security for the payment of any penalties, fees, charges or credits as provided for herein and for the dutiful performance by the Cable Operator of all its obligations under this Ordinance and any franchise agreement. The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding or exercise of a right with respect to same shall in any way affect, or diminish, any other right the City may otherwise have.

(c) *Complaint Procedure.* The Cable Operator shall establish written procedures, which are consistent with this Ordinance, for receiving, acting upon, and resolving Subscriber complaints, and crediting Subscriber accounts and shall publicize such procedures through printed documents at the Cable Operator's sole expense. Said written procedures shall prescribe a simple manner in which any Subscriber may submit a complaint by telephone, FAX, E-mail, in-person, or in writing to the Cable Operator that it has violated any provision of this Ordinance, any terms or conditions of the Subscriber's contract with the Cable Operator, or reasonable business practices. At the conclusion of the Cable Operator's investigation of a Subscriber complaint, but in no more than fifteen (15) calendar days after receiving the complaint, the Cable Operator shall notify the Subscriber of the results of its investigation and its proposed action or credit. The Cable Operator shall also notify the Subscriber of the Subscriber's right to file a complaint with the City in the event the Subscriber is dissatisfied with the Cable Operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the City. The Cable Operator shall immediately report all Subscriber complaints that it does not find valid to the City. A copy of the Cable Operator's complaint procedures, and changes to thereof, shall be provided to the City prior to implementation.

(d) *Complaints to the City.* Pursuant to NRS 711.250, any Subscriber who is dissatisfied with any decision of the Cable Operator or who has not received a decision within the fifteen (15) day period as required shall be entitled to have the complaint reviewed by the City. The Subscriber may initiate the review either by calling the City or by filing a written complaint together with the Cable Operator's written decision, if any, with the City Clerk. The Subscriber shall make such filing and notification within sixty (60) days of receipt of the Cable Operator's decision or, if no decision has been provided, within ninety (90) days after filing the original complaint with the Cable Operator. If the City decides that further evidence is warranted, the City shall require the Cable Operator and the Subscriber to submit, within ten (10) days of notice thereof, a written statement of the facts and arguments in support of their respective positions. The Cable Operator and the Subscriber shall produce any additional evidence, including any reports from the Cable Operator, which the City may deem necessary to an understanding and determination of the complaint. The City's hearing officer shall issue a determination within fifteen (15) days after examining the materials submitted, setting forth its basis for the determination. The City's hearing officer may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution. If the City's hearing officer determines that the Subscriber's complaint is valid and that the Cable Operator did not provide the complaining Subscriber with the proper solution and/or credit, the hearing officer may reverse any decision of the Cable Operator in the matter,

and provide an appropriate amount of money to the Subscriber, in lieu of a credit, by means of a withdrawal from the Security Fund.

**Sec. 5.90.1023. Verification of Compliance.**

- (a) The Cable Operator shall establish its compliance with this Ordinance by providing reports to the City Clerk that demonstrate such compliance within the Franchise Area, including but not limited to:
  - (1) ~~Monthly~~Quarterly comments on citizen relations, such as the number of billing disputes, repair service disputes, complaints referred by the City and how those issues were resolved;
  - (2) A ~~monthly~~quarterly summary by category of complaints, identifying the number and nature of complaints and their dispositions;
  - (3) Quarterly telephone call analysis showing the telephone answer times and wait times; and
  - (4) Quarterly telephone call analysis showing the percentage of calls receiving busy signals; and
  - (5) Quarterly log of Service Interruptions; and
  - (6) Quarterly log of credits and refunds to Subscribers; and
  - (7) Subject to applicable federal and state laws and regulations, any other information requested by the City.
- (b) In the event the City documents a pattern of complaints during a single thirty (30) day period that is unrelated to a force majeure condition, City may require Cable Operator to provide monthly reports for any of the above listed reports for a period not to exceed six (6) months, unless the pattern of complaints remains uncured.
- ~~(b)(c)~~ The Cable Operator shall retain, and make available to the City upon request, the reports specified in subsection (a) for a period of three (3) years.

**Sec. 5.90.1024. Overall Quality of Service.**

- (a) The City may evaluate the overall quality of customer service provided by the Cable Operator to Subscribers in conjunction with any performance review provided for in the franchise agreement; and
- (b) The City may evaluate the overall quality of customer service provided by the Cable Operator to Subscribers at any other time, at its sole discretion, based on the number of Subscriber complaints received by the Cable Operator and the City, and the Cable Operator's response to those complaints.

**Sec. 5.90.1025. Noncompliance.**

Non-compliance with any provision of this Ordinance is deemed to be a violation of this Ordinance and a violation of the terms of the Cable Operator's franchise agreement.



**Sec. 5.90.1026. Remedies and Sanctions for Noncompliance.**

- | (a) The City Manager shall precede the issuance of a notice of violation of the Ordinance with a reasonable period of time for the Cable Operator to remedy the situation. The City Manager shall grant the Cable Operator no less than five (5) and no more than thirty (30) days to cure the violation before issuing a notice of violation. If, however, the City has received reports of the same or similar alleged noncompliance on two (2) or more separate occasions within the preceding 12 month period, the City Manager may issue a notice of violation without allowing the Cable Operator further opportunity to cure.
- | (b) Upon issuance of a notice of violation, the City Manager shall schedule an administrative hearing in accordance with the provisions of Reno Municipal Code, Sec. 1.05.005 et. seq. to determine if the noncompliance occurred. The Cable Operator shall be provided with ten (10) days written notice of the time and the place of the hearing, the allegations of noncompliance and the possible consequences of the noncompliance if substantiated. After the hearing, the City's hearing officer shall determine whether the noncompliance has been substantiated. If the noncompliance is substantiated, the hearing officer may order the Cable Operator to correct or remedy the noncompliance within thirty (30) days (except where the noncompliance constitutes a material safety hazard) and in the manner and on the terms and conditions that the hearing officer establishes. In addition, the hearing officer may:
  - | (1) Impose assessments of up to two hundred dollars (\$200.00) per occurrence to be withdrawn by the City from the Security Fund; and/or
  - | (2) Order, after further hearing, such rebates and credits to affected Subscribers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with this Ordinance; and/or
  - | (3) In its sole discretion, declare a violation of the franchise agreement, and in such case, the noncompliance shall be a violation of the franchise agreement for the purposes of the franchise agreement, triggering all available obligations and remedies under the franchise agreement; and/or
  - | (4) Withhold licenses and permits for work by the Cable Operator or its subcontractors in accordance with applicable law; and/or
  - | (5) Pursue any other legal or equitable remedy available under any applicable franchise agreement or law.
- | (c) Any assessment or remedy shall not constitute a waiver by the City of any other right or remedy it may have under any applicable franchise agreement or law including any right to recover from the Cable Operator any additional damages, losses, costs, and expenses, including actual attorney's fees that are incurred by the City by reason of, or arise out of noncompliance with this Ordinance.

**Sec. 5.90.1027. Notice of rate change.**

Subject to federal, state and local law, the city may establish and regulate the rates or charges for providing cable service and prescribe rate regulation procedures. Subject to

federal, state and local law, prior to implementation of any change in rates or charges for any service or equipment provided by the Cable Operator, the Cable Operator shall provide the city and all Subscribers a minimum of 30 days prior written notice of such change. All such notices will contain a statement that because of federal regulations the City may not regulate cable television rates.

**Sec. 5.90.1030. Franchise fee.**

The Cable Operator shall be required to pay a franchise fee in an amount determined by the City in accordance with federal, state and local laws.

- | (1) *Late payment:* Any franchise fee not paid by the Cable Operator within 60 days of date due shall bear interest at the rate of 12 percent per annum of the amount due, if such percentage does not exceed the legal maximums, from the date due, until paid.
- | (2) *Financial reports:* Each franchise fee payment shall be accompanied by a financial report in a form approved by the City showing the basis for the Cable Operator's computation separately indicating revenues received by the Cable Operator within the City from basic service, pay TV service, other applicable sources of revenue, and such other information directly related to confirming the amount of the Cable Operator's gross revenues as may be reasonably required by the City.
- | (3) *Accounting standards:* Not less than annually, the Cable Operator shall provide the City Manager or his designee with an unqualified certification of a certified public accountant attesting to the accuracy of the quarterly franchise fee payments paid within the preceding 12 months as hereinabove set forth. Said certification shall be prepared in accordance with generally accepted accounting standards as established by the financial accounting standards board (FASB).
- | (4) *Auditing and financial records:* During the term of each franchise, the City may, not more frequently than once a year, conduct an audit of the books, records and accounts of the Cable Operator for the purpose of determining whether the Cable Operator has paid franchise fees in the amount hereinabove prescribed. The audit may be conducted by an auditor of the City or by a consultant retained by the City, and shall be conducted at the sole expense of the City. The party conducting the audit shall prepare a written report containing its findings, and the report shall be filed with the City Clerk, and mailed to the City and Cable Operator.

Each Cable Operator shall make available for inspection by authorized representatives of the City, its books, accounts, and all other financial records reasonably related to the computation of franchise fees at reasonable times and upon reasonable advance notice for the purpose of permitting exercise of the authorities conferred by this section.

In the event that such audit discloses a discrepancy of more than five percent (5%) between the financial report submitted by the Cable Operator with a payment and the actual gross revenues collected by the Cable Operator, the Cable Operator agrees to pay to City the reasonable costs of such audit. In the event that such audit results in a determination that additional franchise fees are due the City, the

Cable Operator shall pay the additional franchise fees due and payable together with interest as required for late payment on such additional franchise fees computed from the date on which such additional franchise fees were due and payable.

- (5) *Nonwaiver:* No acceptance of any franchise fee payment by the City shall be construed as an agreement by the City that the franchise fee paid is in fact the correct amount, nor shall its acceptance of payment be construed as a release or waiver of any claim the City may have for further or additional sums payable under the provisions of this ordinance.
- (6) *Taxes:* Nothing in this section shall limit the Cable Operator's obligation to pay applicable local, state, or federal taxes.

#### **Sec. 5.90.1040. Consumer protection.**

The quality of service provided to the residents of Reno by the Cable Operator is of utmost concern to the City. To that end, periodic meetings and certain reports will be required. In addition to these meetings and reports, the City Manager or his designee shall maintain an oversight review of the Cable Operator's performance in those areas in accordance with Section 632 of the Cable Act.

#### **Sec. 5.90.1041. Reports.**

(a) ~~For~~Throughout the term of the franchise, the Cable Operator shall be required to furnish to the City Clerk ~~within thirty (30) days after the anniversary date~~by March 31 of the granting or renewal of a franchise each year a report of its activities within the City of Reno, including, but not limited to the following:

- (1) A ~~fully audited revenue report, or a~~ revenue report certified as correct by ~~a Cable Operator's chief financial officer~~of the Company;
- (2) A list of officers and members of the board of directors of the Cable Operator and its parents;
- (3) A list of stockholders holding five(5) percent or more of the voting stock of the Cable Operator or its parents;
- (4) A copy of the Cable Operator's annual report and those of its parents~~s and~~subsidiaries;
- (5) Listings of the number of Subscribers within the City of Reno;
- (6) The number of homes passed;
- (7) The number of Subscribers with basic services;
- (8) The number of Subscribers with premium services;
- (9) The number of Subscribers using interactive services;
- (10) The number of hook-ups in period;
- (11) The number of disconnects in period;
- (12) The number of miles of cable laid in period;

- (13) Total number of miles of cable in the City of Reno;
- (14) A full schedule complete listing of all Subscriber and user rates, fees and charges and their effective dates for all cable services provided;
- (15) Plans for future technical upgrading;
- (16) Plans for future programming and/or changes;
- (17) Maps indicating existing location of headend equipment, trunk and distribution lines;
- (18) A statement of its current billing practices;
- (19) Report on operations--Such report with respect to its operation, affairs, transactions or property, as may be determined to be within the purview of the City;
- (20) Status of emergency power supply;
- (21) Current service policy procedures.
- (b) *Surveys.* In addition to providing such other information as may be requested under subsection (a), the Cable Operator shall provide the following special reports:
  - (1) Once every three (3) years, an opinion survey report approved by the City as to form and content, which identifies subscriber satisfaction/dissatisfaction with cable services offered by the Cable Operator. Surveys required to make said report shall be statistically valid and reliable. In lieu of this obligation, a Cable Operator may agree in a franchise agreement to pay a sum to the City so that the City may perform the survey.
  - (2) Consistent with FCC requirements, an annual plant survey report, which shall be a survey of the Cable Operator's plant and a full report thereon including new construction and complete annual outages by area of the City. The purpose of the report is to assure the City that the plant is being operated and maintained in accordance with applicable law. Said report shall include but not be limited to an appropriate engineering evaluation and shall be conducted in conformance with standard engineering practices. This requirement does not apply during a period of initial construction, or upgrade mandated by a franchise agreement.
- (c) *Material misrepresentations.* Any material misrepresentation made by the Cable Operator in any report required by this section shall subject the Cable Operator to the penalty provisions of this chapter and shall subject the Cable Operator to all remedies available to the City by law.
- (d) *Access to books and records.*
  - (1) The City may inspect and copy books and records of the Cable Operator that are reasonably necessary to the enforcement of any provision of this chapter; the franchise agreement; to the conduct of performance evaluation sessions; or to the exercise of any authority that the City may have under the same or any other provision of applicable law. Without limiting the foregoing, a Cable Operator shall provide the City access to complaint data to enable the City to fully

investigate subscriber complaints. Books and records shall be produced to the City for inspection at City Hall or at such other mutually agreed upon location within the City. The City will not unreasonably refuse a request that it inspect documents at the Cable Operator's facilities within the City. Provided, however, that nothing in this chapter shall be read to require the Cable Operator to violate any provision of federal or state law relating to Subscriber privacy. Information requested shall be made available for inspection within fourteen (14) business days of a request therefor, which period shall be subject to extension for good cause shown where no harm will result to the public interest from the delay.

- (2) A Cable Operator must produce the books and records requested by the City Manager or his designee even if the Cable Operator does not believe that the request satisfies the standard set out above, unless the City Council waives the requirement, or the Cable Operator obtains a court order from a court of competent jurisdiction enjoining the request.
- (3) A Cable Operator may not refuse City inspection of Cable Operator books and records in Cable Operator's local office on the ground that such books and records contain proprietary information.

**Sec. 5.90.1042. Cable system evaluation.**

(a) Cable Operator shall supply City with copies of its bi-annual FCC Performance Tests. In addition to ~~formal performance reviews~~ FCC Performance Tests, the City Manager or his designee may require reasonable technical evaluation sessions at any time during the time of the franchise no more often than once every 3 years, or in the event of a documented pattern of uncured complaints relating to technical issues.

(b) To assist in the technical evaluation, the City Manager or his designee may enlist an independent consultant to conduct an analysis of the cable system and its performance and to submit a report of such analysis to the City.

(c) During a technical evaluation session, the Cable Operator shall fully cooperate with the City or its consultant and shall provide without cost such information and documents as the City or its consultant may reasonably request to perform technical evaluation.

(d) If, as a result of the evaluation session, or at any other time, the City Manager or his designee determines that reasonable evidence exists of inadequate cable system performance, it may require the Cable Operator to perform technical tests and analyses directed toward such suspected inadequacies. The report prepared by the Cable Operator shall include at least:

- (1) A description of the problem in cable system technical performance, which precipitated the special tests.
- (2) What cable system components were tested.
- (3) The equipment used and procedures employed in testing.
- (4) The method, if any, by which such cable system technical performance problem was resolved.

- (5) Any other information pertinent to said tests and analyses which may be required by the City Manager or his designee, or determined when the test is performed.
- (e) If the tests indicate that the system is not in substantial compliance with FCC standards, the Cable Operator shall reimburse the City for any reasonable costs involved in such test such as consultant fees or other expenses.

**Sec. 5.90.1043. Formal performance reviews.**

(a) The City and the Cable Operator agree that it is in the Cable Operator's, the City's, and the Subscribers' best interest to conduct formal performance reviews every three years. The subjects which shall be discussed at the review shall include, but not be limited to, those items covered in the periodic reports (section 5.90.1041) as well as other possible items, such as:

- (1) Subscriber service procedures for subsequent period and evaluation of performance of past period;
- (2) Interconnection;
- (3) Franchise fees;
- (4) Penalties;
- (5) Free or discounted services;
- (6) Application of new technologies;
- (7) Technical standards;
- (8) System performance;
- (9) Services provided;
- (10) Programming offered;
- (11) Access channels, facilities and support;
- (12) Municipal uses of cable;
- (13) Use and promotion of institutional networks;
- (14) Local origination;
- (15) Consumer protection;
- (16) Privacy;
- (17) EEO compliance;
- (18) Proposed amendments to the franchise;
- (19) Judicial rulings;
- (20) Channel utilization;
- (21) Congressional actions;
- (22) FCC rulings;
- (23) The need for providing other installations in public buildings;

- (24) Emergency standby power;
- (25) Telephone answering;
- (26) Other matters of concern.

(b) The City also reserves the right to conduct periodic reviews from time to time on subjects of concern.

**Sec. 5.90.1050. Continuity of service.**

It shall be the right of all Subscribers to continue receiving service so long as their financial and other obligations to the Cable Operator are fulfilled.

**Sec. 5.90.1060. Modification.**

In the event the Cable Operator shall seek to have the existing franchise modified, Section 625 of the Cable Act shall govern the procedure for the modification request unless the City and the Cable Operator shall otherwise agree.

**Sec. 5.90.1070. Nondiscrimination.**

The Cable Operator shall not as to rates, charges, service facilities, rules, regulations or in any other respect make or grant any preferences or advantage to any person nor subject any person to any prejudice or disadvantage, provided that nothing in this ordinance shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled, and provided further that connection and/or service charges may be waived or modified during promotional campaigns of the Cable Operator.

The Cable Operator will not deny access to cable television service to any group of potential subscribers because of the income of the residents of the local area in which the group resides.

**Sec. 5.90.1080. Equal employment opportunity.**

The Cable Operator shall be required to comply with state and City regulations pertaining to equal employment opportunity and in accordance with Section 635 of the Cable Act.

**Sec. 5.90.1090. Transfer of ownership.**

Any franchise awarded by the City shall be based upon an evaluation by the City of the technical, financial and legal qualifications of the Cable Operator, and other lawful criteria that may pertain to each particular assignee.

An assignment of the franchise shall be deemed to occur where there is an actual change in control or where ownership of fifty (50) percent or more of the beneficial interests, singly or collectively, is obtained by any third party(ies); provided, however, that the Cable Operator shall have the right to assign the Franchise to a wholly owned Affiliate, upon thirty (30) day's written notice to the City.

Every change, transfer or acquisition of control of the Cable Operator's company shall make the franchise subject to cancellation unless and until the City shall have consented thereto subject to federal law.

As part of the transfer application, the Cable Operator shall furnish to the City the following documents:

- | (1) A financial statement that verifies that assignee has the ability to comply with all terms and conditions in this article and the franchise agreement.
- | (2) A list of all cable systems owned and operated by assignee within the State of Nevada.
- | (3) If assignee is a corporation, a list of officers, directors and shareholders owning five (5) percent or more of the outstanding stock. If assignee is a partnership, a listing and biographical statement of the partners.
- | (4) A summary of current litigation with any franchising authority located within the State of Nevada.
- | (5) Consistent with federal and state law, any other documents and information necessary by the City in order to render and informed transfer decision.

The City shall review and act on any and all requests for franchise transfer within 120 days after receipt of a transfer application as required by federal law and the franchise, unless the City and the Cable Operator mutually agree to an extension of this time in accordance with federal law.

Approval of any transfer or change in ownership shall not be unreasonably withheld. Any transfer or assignment approved by the City shall be evidenced by a written instrument, a duly executed copy of which shall be filed within 60 days after the approval of the transfer or assignment by the City. By said instrument the assignee shall agree to comply with all terms of this article and the franchise agreement. The City shall have the right to require that any conditions in the original franchise be fulfilled prior to such transfer.

#### **Sec. 5.90.1100. Right of City to purchase.**

The City reserves the right to purchase the existing system pursuant to Section 627 of the Cable Act.

#### **Sec. 5.90.1110. Alternative remedies.**

No provision of this article shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the franchise documents or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in said chapter nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages (except where liquidated damages are otherwise prescribed) for such violation by the Cable Operator, or judicial enforcement of the Cable Operator's obligations by means of specific performance, injunction, relief or mandate, or any other judicial remedy at law or in equity.



**Sec. 5.90.1120. Anti-competitive practices.**

No franchise issued pursuant to the provisions of this ordinance shall be deemed to expressly or impliedly authorize the Cable Operator to utilize its cable television system to provide any service in such manner as to unlawfully damage any business competitor or other third party or violate any statutes or regulations of the United States or the State of Nevada. Nor shall any Cable Operator, by act or omission, engage in any anti-competitive practice in violation of any statutes or regulations of the United States or the State of Nevada. The provisions of this section shall be enforceable in courts of competent jurisdiction against a Cable Operator by any party who alleges injury as a result of an alleged violation thereof.

**Sec. 5.90.1130. Insurance.**

The Cable Operator shall provide evidence to the City Clerk of both liability and property damage insurance in an amount determined by the City. A certificate evidencing such insurance showing the City as additional insured shall be delivered to the City Clerk or the Clerk's designee with their written acceptance or renewal of the franchise within thirty (30) days. The City shall be notified by the insurance company at least 30 days prior to cancellation. The Cable Operator must maintain insurance for the duration of the franchise.

**Sec. 5.90.1140. Bonds.**

The Cable Operator shall comply with all present and future ordinances and regulations of the City regarding excavation or construction and, in whatever amount deemed necessary by the City, shall be, unless specifically excepted, required to post a reasonable performance bond in favor of the City warranting, among other things, that all restoration shall be done promptly and in a workmanlike manner.

**Sec. 5.90.1150. Inconsistency.**

If any portion of this ordinance should be inconsistent with any rule or regulation now or hereinafter adopted by the FCC or other federal legislation, then to the extent of the inconsistency, the rule or regulation of the FCC or other federal legislation shall control so long, but only for so long, as such rule or regulation shall remain in effect, but the remaining provisions of this ordinance shall not thereby be effected.

**Sec. 5.90.1160. Severability.**

Each section, subsection or other portion of this ordinance shall be severable and the invalidity of any section, subsection, or other portion shall not invalidate the remainder.

**Sec. 5.90.1170. Force majeure.**

In the event that the Cable Operator's performance of any of the terms, conditions, obligations or requirements of this ordinance is prevented or impaired due to any cause(s) beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof.

Section 2: If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall in no way affect any remaining provisions of this Ordinance.

Section 3: This Ordinance shall be in effect from and after its passage, adoption, and publication in one issue of a newspaper printed and published in the City of Reno.

Section 4: The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the *Reno Gazette-Journal*, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, ~~2003~~2004, by the following vote of the City Council:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_ ABSENT: \_\_\_\_\_

APPROVED this \_\_\_\_ day of \_\_\_\_\_, ~~2003~~2004.

\_\_\_\_\_  
ROBERT A. CASHELL, SR.  
MAYOR OF THE CITY OF RENO

ATTEST:

\_\_\_\_\_  
CITY CLERK AND CLERK OF THE  
CITY COUNCIL OF THE CITY OF RENO,  
NEVADA

EFFECTIVE DATE: \_\_\_\_\_, 2003.